



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/322,663	05/28/1999	WILLIAM H. SHEPARD	05918/133001	8336

7590 06/28/2002
JOHN N WILLIAMS
FISH & RICHARDSON PC
225 FRANKLIN STREET
BOSTON, MA 021102804

EXAMINER

BEFUMO, JENNA LEIGH

ART UNIT PAPER NUMBER

1771

DATE MAILED: 06/28/2002

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/322,663

Applicant(s)

SHEPARD ET AL.

Examiner

Jenna-Leigh Befumo

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6,7,9,11 and 13-89 is/are pending in the application.
- 4a) Of the above claim(s) 22-86 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,7,9,11,13-19,21 and 87-89 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Amendment B, submitted as Paper No. 15 on April 18, 2002, has been entered. Claim 12 has been cancelled. Claims 1, 4, 6, 7, 9, 11, 13 – 17, 19 and 20 have been amended and claims 87 – 89 have been added. Therefore, the pending claims are 1 – 4, 6, 7, 9, 11, and 13 – 89. Claims 22 – 86 are withdrawn from consideration as being drawn to a non-elected invention.
2. The new claims added by the Applicant as number 35 – 37, have been renumbered as 87 – 89 since the case already has claims numbered 35 – 37.
3. The rejections of claim 12 in the previous Office Action are moot since the claim has been cancelled.
4. Amendment B is sufficient to withdrawn the 35 USC 112 2nd paragraph rejections et forth in sections 4 – 11 of the previous Office Action.
5. Amendment B is sufficient to overcome the 35 USC 103 rejections of claim 20 over Nemec et al. (6,010,387) in view of Shepard et al. (WO 99/11452), Lemelson et al. (3,857,566), Powell (5,603,504), and Bricker (5,664,780), over Nemec et al. in view of Lawless (5,891,547), Lemelson et al., Powell, and Bricker, and over Lawless in view of Nemec et al., Lemelson et al., Powell, and Bricker, since the prior art references fail to teach or fairly suggest laminating the nonwoven loop fabric directly to the flute regions of the corrugated core.

Double Patenting

6. Claim 87 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 17. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim

Art Unit: 1771

to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1 – 4, 6, 7, 9, 11, 13 – 19, 21, 87, 88, and 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nemec et al. in view of Shepard et al., Lemelson et al., Powell, and Bricker.

Claims 1 – 4, 6, 7, 9, 15, 16, 18, 21, and 89 are rejected over Nemec et al., Shepard et al., Lemelson et al., Powell, and Bricker for the reasons set forth in section 13 of the past Office Action.

Nemec discloses using a corrugated board as the substrate for the display system. Corrugated board is well known and commonly made from paper materials since paper is light weight, readily available, inexpensive, and easy to dispose of. It would have been obvious for one having ordinary skill in the art to use a paper materials to produce the corrugated board substrate layer taught by Nemec et al. since paper is inexpensive, lightweight, and biodegradable. Thus, claims 17, 19, and 87 are rejected.

With respect to claims 11, 13, 14, and 88, the recitation that the image is “dye printed” on the nonwoven material is a method limitation. Since method limitations are not given patentable weight in article claims, unless it has been shown that the method produces a structurally different product the method limitation only requires that the nonwoven material have an image applied to it in some form. Thus, the claims are rejected for the reasons set forth in the previous

Art Unit: 1771

Office Action. Further, Powell et al. discloses that the design can be silk screen printed onto the surface of the fabric. Silk screen printing uses a dye paste to apply images to fabrics. Therefore, it is a type of dye printing.

9. Claims 1, 2, 6, 9, 11, 13 – 19, 21, 87, and 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nemec et al. in view of Lawless, Lemelson et al., Powell, and Bricker.

Claims 1, 2, 6, 9, 15, 16, 18, and 21 are rejected over Nemec et al., Lawless, Lemelson et al., Powell, and Bricker for the reasons set forth in section 14 of the previous Office Action.

As set forth above, claims 17, 19, and 87 are also rejected since it would have been obvious for one having ordinary skill in the art to choose a corrugated board made from paper products since paper is inexpensive, light weight, and biodegradable.

Additionally, claims 11, 13, 14, and 88 are rejected since the limitation that the image is dye printed is not given patentable weight at this time since it is a method limitation, and doesn't further limit the structure of the image on the nonwoven material.

10. Claims 1-4, 6, 7, 9, 11, 13 – 19, 21, and 87 – 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawless in view of Nemec et al., Lemelson et al., Powell, and Bricker.

Claims 1 – 4, 6, 7, 9, 15, 16, 18, and 21 are rejected over Lawless, Nemec et al., Lemelson et al., Powell, and Bricker for the reasons set forth in section 15 of the previous Office Action.

As set forth above, claims 17, 19, and 87 are also rejected since it would have been obvious for one having ordinary skill in the art to choose a corrugated board made from paper products since paper is inexpensive, light weight, and biodegradable.

Art Unit: 1771

Additionally, claims 11, 13, 14, and 88 are rejected since the limitation that the image is dye printed is not given patentable weight at this time since it is a method limitation, and doesn't further limit the structure of the image on the nonwoven material.

Additionally, claim 89 is rejected, since it would have been obvious to one having ordinary skill to laminate the nonwoven material to the substrate so it is stretched in two directions to prevent the fabric from bunching and produce a smooth, flat surface and to prevent the material from being pulled off when the releasably attached pieces are removed.

Allowable Subject Matter

11. Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior fails to teach or fairly suggest applying the loop fabric for a hook and loop fastener directly to the flute regions of a corrugated core.

Response to Arguments

12. Applicant's arguments filed April 18, 2002 have been fully considered but they are not persuasive. The Applicant argues that since applying an image was not mentioned in either the Shepard et al, or Lawless reference, which both disclose numerous uses for and variations of the lightweight nonwoven loop material, it would not be obvious to one of ordinary skill to apply an image to the lightweight loop material (Amendment B, pages 4 – 8). However, a patent is not required to disclose every feasible variation or obvious embodiment. In other words, an inventor is allowed to simplify a disclosure by not including those things which would be obvious to one of ordinary skill in the art. In other cases, some variations are not considered critical to the performance of the invention and thus, the Applicant does not describe these

Art Unit: 1771

features in the disclosure. Additionally, the fact that a patent fails to explicitly teach or suggest an obvious variation is not the standard applied applications to determine if the claims are patentable. In other words, just because the inventor did not think of, or disclose a specific variation does not imply that variation would not be obvious to one of ordinary skill in the art. The standard for obviousness, is based on the knowledge of one of ordinary skill in the art at the time of the invention. In this case, as shown by the prior art of record, it is known to apply graphic images to loop materials. Thus, the rejections are maintained.

13. Additionally, the Applicant argues that the method of dyeing is critical to the image produced (Amendment B, page 6). However, the Applicant fails to claim a specific method of printing. Additionally, the Applicant has failed to produce any evidence that one type of printing produces a structurally different product than another type of printing. Thus, until the Applicant has claimed specific types of printing and shown that those types of printing produce a structurally different product the rejections are maintained.

14. Finally, the Applicant argues against the references individually. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Therefore, the rejections are maintained.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1771

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

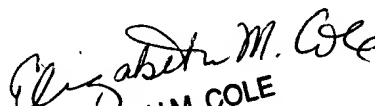
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (703) 605-1170. The examiner can normally be reached on Monday - Friday (9:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Jenna-Leigh Befumo
June 24, 2002




ELIZABETH M. COLE
PRIMARY EXAMINER